

the U.S. Internal Revenue Code. Citizens United seeks to promote social welfare through informing and educating the public on conservative ideas and positions on issues, including national defense, the free enterprise system, belief in God, and the family as the basic unit of society. In furtherance of those ends, Citizens United produces and distributes information and documentary films on matters of public importance. Citizens United regularly requests access to the public records of federal government agencies, entities, and offices, to disseminate its findings to the public through its documentary films and publications.

4. Defendant, the Federal Deposit Insurance Corporation, is an agency of the United States Government (*see* 12 U.S.C. § 1819(b)) and is headquartered at 550 17th Street N.W., Washington, D.C. 20429. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. Citizens United routinely submits FOIA requests, and this matter concerns two FOIA request letters submitted to Defendant on June 21, 2019 to which Defendant has failed to respond.

6. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant is required to respond to Citizens United's FOIA requests within 20 working days of each request.

7. Since Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), Citizens United is deemed to have fully exhausted any and all administrative remedies with respect to its FOIA requests. *See* 5 U.S.C. § 552(a)(6)(C).

8. On June 21, 2019, Citizens United submitted a FOIA request, online, to Defendant. *See* Exhibit A. The request sought:

- All records relating to the appointment of former Harvard Law Professor and current U.S. Senator Elizabeth Warren to the Federal Deposit Insurance Corporation's Advisory Committee on Economic Inclusion.
- All letters, notes, memos, policy papers or recommendations, phone message slips or daily schedules belonging to or generated by former Harvard Law Professor and current U.S. Senator Elizabeth Warren during her tenure on the Federal Deposit Insurance Corporation's Advisory Committee on Economic Inclusion.

The time period covered by the FOIA request was January 1, 2006 to December 31, 2010.

9. FDIC acknowledged receipt of the FOIA request on June 24, 2019 and assigned the request Case Control Number 19-0230. *See* Exhibit B.

10. With regard to Citizens United's FOIA requests, the statutory deadline has passed, and Defendant has failed to provide a substantive response to the FOIA request. In fact, as of the date of this Complaint, Defendant has failed to produce a single responsive record or assert any claims that responsive records are exempt from production.

CAUSE OF ACTION
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 10 as though fully set forth herein.

12. Defendant has failed to make a determination regarding Citizens United's June 21, 2019 FOIA request for records (19-0230) within the statutory time limit and is unlawfully withholding records requested by Citizens United pursuant to 5 U.S.C. § 552.

13. Citizens United is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Citizens United will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Citizens United requests that the Court grant all appropriate relief for the violations of FOIA alleged above, including:

- a. An order and judgment requiring the Defendant to conduct a search for any and all records responsive to Citizens United's FOIA request and to demonstrate that it employed search methods reasonably likely to lead to the discovery of all records responsive to Citizens United's request;
- b. An order and judgment requiring the Defendant to produce, by a date certain, any and all non-exempt records responsive to Citizens United's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;
- c. An order and judgment permanently enjoining Defendant from continuing to withhold any and all non-exempt records in this case that are responsive to Citizens United's FOIA request;
- d. Attorneys' fees and costs to Plaintiff pursuant to any applicable statute or authority, including 5 U.S.C. § 552(a)(4)(E); and
- e. Any other relief that this Court in its discretion deems just and proper.

/s/ Jeremiah L. Morgan
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